



Montoya, Darlene <dmontoya@nmag.gov>

Use of Force Policy Request

2 messages

Karl Wiese <kwiese@sandovalcountynm.gov>
To: "dmontoya@nmag.gov" <dmontoya@nmag.gov>
Cc: Doug Wood <dwood@sandovalcountynm.gov>

Thu, Jan 26, 2017 at 6:59 PM

Ms. Montoya,

Attached please find our current policy and procedures concerning use of force, firearms and investigation of the use of force. These policies were written in 2008 by the previous Sheriff's administration and were accepted as the standard for our agency during contract negotiations and are authorized through a collective bargaining agreement.

All newly hired deputies are trained on the use of force during their field training process. Our minimal goal is to train/review Use of Force, etc. on a bi-annual basis. Due to recent events, as you mentioned in your letter, we have conducted more frequent discussions and reviews. Regarding the investigation of the use of deadly force, although it is included in the policy, our actual practice has been to allow the N.M. State Police to conduct the criminal investigation while we conduct the administrative investigation.

Recognizing that our Use of Force policy needed updating, Captain Mike Traxler and I are currently in the process of writing a new policy for our agency based on information received when we became certified instructors in Constitutional Based Use of Force/Response to Aggression. We also conducted research and obtained samples from other CALEA agencies in the State as references. This new policy will encompass all aspects of the use of force. I hope to have that policy completed in the next couple of weeks and can forward you a copy at the time if you desire.

Sincerely,

Karl

Karl R. Wiese

Undersheriff

Sandoval County



Use of Force and Investigation.docx

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Montoya, Darlene <dmontoya@nmag.gov>
To: Karl Wiese <kwiese@sandovalcountynm.gov>

Fri, Jan 27, 2017 at 8:28 AM

Cc: Doug Wood <dwood@sandovalcountynm.gov>

Thank you Undersheriff Wiese. Stay warm and stay safe.

[Quoted text hidden]

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Darlene Montoya, Administrator
New Mexico Attorney General's Office
408 Galisteo Street
Santa Fe, New Mexico 87501
[\(505\) 490-4854](tel:(505)490-4854)

Sandoval County Sheriff's Office – Standard Operating Procedures (2008 Version)

307.0 USE OF FORCE

- 307.1 Deputies are vested with the lawful authority to use force to protect the public welfare; however, a careful balancing of all human interests is required. Deputies are charged with the responsibility of weighing any other available means of apprehension and control before resorting to the use of force.
- 307.2 It is the policy of this Sheriff's Office that deputies shall use only that force that appears reasonably necessary and only to the degree sufficient to overcome resistance to effectively bring an incident under control, while protecting the life of the employee or another. All deputies will receive training in the use of force based on the reactive control model (RCM). Deputies will utilize the RCM in all use of force incidents.
- 307.3 Deadly force is that use of force that is likely to cause death or serious bodily injury.
- 307.4 Non-deadly force is defined as any other use of force other than that which is considered deadly force.
- 307.5 A deputy must be firm, resolute and energetic in exercising the means to properly perform his duty, Deputies shall employ defensive and control techniques including the use of Sheriff's Office issued/approved equipment and devices. Cowardice will not be condoned. Deputies are not required to desist in their efforts to make lawful arrests when resistance is encountered.
- 307.6 Deputies of the Sheriff's Office will only carry weapons that have been approved by the Sheriff's Office. Only Sheriff's Office issued or approved straight, side handle, or expandable batons will be carried by deputies of the Sheriff's Office.
- 307.7 The expandable baton shall be considered an integral part of a field services patrol deputy's uniform and shall be worn on the utility belt at all times while in the discharge of his official field duties.
- 307.8 Personnel will not use weighted night-sticks, gas billies, saps, zip-sticks, leaded weighted gloves or flat-slappers.
- 307.9 Personnel shall be required to become knowledgeable in the proper use of all Sheriff's Office non-deadly force weapons issued to them and shall receive the training necessary to meet any state certification criteria.
- 307.10 Personnel are not permitted to use a non-deadly weapon unless qualified and proficient in use as determined by training procedures.
- 307.11 The following non-deadly force weapons are authorized to be used provided that the deputy is qualified in their use:
- a) Straight baton, side handles baton, expandable baton.
 - b) Capstun or pepper mace.
 - c) Taser.

- 307.12 Personnel involved in a use of force incident shall be required to write an offense/incident report and complete a use of force report in all instances of the use of force. This includes the discharge of a weapon, whether intentional or accidental.
- 307.13 Deputies are responsible for maintenance of deadly and non-deadly force weapons issued to them and the weapons shall be kept in serviceable condition at all times. Non-deadly force weapons other than those issued by the Sheriff's Office may be carried if approved by the Sheriff in writing prior to its usage. Damaged, non-functioning, expended non-deadly force weapons issued shall be reported to the deputy's supervisor immediately for repair or replacement.
- 307.14 Personnel are authorized to use Sheriff's Office approved non-deadly force techniques in the event that use of force becomes necessary as follows:
- a) To protect themselves or others from physical harm.
 - b) To restrain or subdue a resisting individual.
 - c) To bring an unlawful situation safely and effectively under control.
- 307.15 Since chemical agents (i.e., capstun and pepper mace) are difficult to localize, care should be exercised in their usage.
- 307.16 Provisions should be made for allowing person(s) subjected to chemical agents to irrigate their eyes with water as soon as practical.
- a) Person(s) subject to chemical agents shall be examined by EMS Personnel.
- 307.17 When a confrontation suddenly escalates, personnel may use any means or device at hand for self-defense provided that the use of force is reasonable.
- a) Flashlights shall not be used as a striking weapon.
- 307.18 Deadly force will not be used to affect the arrest of a misdemeanor **unless** the situation develops into actual use of deadly force on the part of the suspect.
- 307.19 In the performance of his/her duty, a deputy may use deadly force only as a last resort and when the deputy has reasonable belief that deadly force action is required to:
- a) Protect he/she or others from what is reasonably believed to be an immediate threat of death or serious bodily harm.
 - b) Prevent the escape of a fleeing felon whom the deputy has probable cause to believe will pose a significant threat to human life if escape should occur.
- 307.20 Before using a firearm, where feasible, personnel shall identify themselves and state their intent to shoot.
- a) Warning shots shall not be allowed.
- 307.21 To provided guidelines for an appropriate interpretation of a fleeing felon who would pose a significant threat to human life if escape should occur the following is provided.

- a) The felon is armed and dangerous.
- b) The felon was armed and dangerous during the commission of a previously committed felony.
- c) The felony committed resulted in the death or great bodily injury to a citizen or a law enforcement officer.

307.22 This deadly force policy is designed to prohibit the following:

- a) The use of deadly force against unarmed, non-dangerous fleeing property offender(s).
- b) The use of deadly force against fleeing misdemeanants and traffic offenders.
- c) The use of deadly force when the circumstances do not provide a high probability of striking the intended target or when there is substantial risk to the safety of innocent bystanders.

307.23 If in the performance of his/her duties, a deputy is the victim of an assault which might cause death or serious bodily harm, he/she is not required to retreat, but may stand his/her ground and defend him/herself even to the point of using deadly force against his/her assailant if the use of such force would prevent death or serious bodily harm to the deputy. The rule of self-defense is applicable, regardless of the age or sex of the assailant.

307.24 In all use of deadly force incidents, the Sheriff's Office shall conduct both an administrative and criminal investigation of the incident.

308.0 USE OF FIREARMS

308.1 The policy of this Sheriff's Office is that personnel shall exhaust every other reasonable means to protect life and property or to affect apprehension before resorting to the use of firearms.

308.2 Before using a firearm, deputies shall identify themselves and state their intent to shoot, where feasible.

308.3 Diligent care should be taken in the aim and direction of fire in any situation so as not to unnecessarily jeopardize innocent persons or property.

308.4 Armed personnel shall not discharge firearms in the performance of their duties, except during authorized target practice at an approved range, except in those situations and circumstances listed in Sections 307.0 and 308.0 of this manual.

308.5 Deadly force may be used to terminate the life of an animal, which is mortally injured or presents a clear and present danger to human safety. The target area should be the head, unless the possibility of rabies exists. Authorization from a supervisor, if time permits, is required.

308.6 A deputy may draw his firearm, with no intent to use it, when necessary to control a violent situation, take a felony suspect into custody, and/or when conducting building searches to secure the premises.

308.7 Except for training, inspection, maintenance, and as noted in this section, firearms WILL NOT be drawn or exhibited.

309.0 UNAUTHORIZED USE OF FIREARMS

- 309.1 Personnel may not fire warning shots unless doing so would save him/herself or another from possible serious injury or death.
- 309.2 Personnel will not intentionally place themselves in the path of a fleeing vehicle and then, in self-defense, fire upon that vehicle and/or its occupants.
- 309.3 Firearms will not be used in any other instance in which a reasonable and prudent person would not fire or unnecessarily endanger human lives.
- 309.4 Any discharge of a firearm deemed to be unauthorized, for any reason, will result in appropriate disciplinary action.

310.0 PROCEDURE WHEN FIREARM IS DISCHARGED ON DUTY CAUSING INJURY OR DEATH

- 310.1 Whenever a deputy of this Sheriff's Office discharges a firearm on duty either accidentally or in the performance of his official duties, he shall verbally notify his immediate supervisor as soon as time and circumstances permit, but in no event later than the conclusion of his tour of duty.
 - a) The supervisor will immediately notify the Sheriff if any injury is involved because of the discharge of a firearm by the Sheriff's Office employee.
 - b) The condition of critically injured victim(s) will be reported to the Sheriff or his designee.
- 310.2 The deputy who discharged the firearm shall file a written report of the incident within eight (8) hours of the incident to the Sheriff and shall complete a Use of Force Report Form unless hospitalized or injured and unable to do so.
 - a) If the deputy is injured and unable to file a written report, the deputy's supervisor will file the report. Recorded statements may be taken in order to gather information for the report.
- 310.3 When an incident occurs in which a deputy seriously injures or kills another person, the first supervisor to arrive at the scene will advise the deputy of his right to consult with counsel immediately.
- 310.4 The concerned deputy shall be permitted to counsel, in private if necessary, prior to any questioning or interview concerning the incident.
- 310.5 Representation shall be allowed beginning at the scene of the incident, and continuing through the entire criminal investigation.
 - a) Witness(s) to an incident are not necessarily entitled to legal representation.
- 310.6 The involved deputy shall relate a brief account of the incident to a supervisor, and to him only, prior to the arrival of the necessary investigative personnel, so that the supervisor may brief ranking personnel who may require administrative information.
- 310.7 If the deputy is not injured, he should retire some distance from the scene to await the arrival of the person in charge of the investigation.

- 310.8 Normally, another deputy of equal rank, or a supervisor, may be chosen by the involved deputy to act as a companion.
- a) The purpose of the companion is to serve in a supportive role during the subsequent events; however, the chosen companion may be required to provide a statement to investigators, therefore, the companion shall inform the involved deputy of this requirement.
- 310.9 The involved deputy will be afforded an opportunity to communicate with his family and clergy representative as soon as possible.
- a) The person designated as “companion” shall make the necessary arrangements for transportation or other needs.
- 310.10 The supervisor-in-charge at the scene shall ensure that only investigators and/or crime-scene personnel are admitted to the scene, until physical evidence collection is completed.
- 310.11 After evidence collection is completed, only the following persons shall be admitted to the scene, until the scene is released by the investigator in charge; Sheriff, Undersheriff, Captain, Investigations Commander, and Internal Affairs designee, and other necessary personnel.
- 310.12 The involved deputy’s commander shall confer with the investigating officer so that a briefing sheet can be prepared. The briefing sheet is intended to inform all personnel of the incident so that the involved deputy is less likely to be subject to questioning upon his return to duty.
- a) Copies of the briefing sheet shall be distributed to the Sheriff, the Undersheriff, Captain and Lieutenants.
- 310.13 The involved deputy shall be seen by a psychologist contracted by the Sheriff’s Office as soon as practical after the incident. The duration of the consultation shall be as the direction of the psychologist.
- 310.14 The involved deputy shall be placed on administrative leave with pay for a minimum of one (1) day. If, in the opinion of the individual’s commander additional administrative leave with pay is necessary, it may be granted up to a period of five (5) working days, upon approval of the Sheriff.
- a) The involved deputy shall remain available if needed.
- 310.15 In all cases, the completed investigation will be submitted to the District Attorney for evaluation and proper action if required.